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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,027	02/21/2002	Roger Edward Kerns	MILL.001A	1646

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EXAMINER

SOTOMAYOR, JOHN

ART UNIT PAPER NUMBER

3714

DATE MAILED: 05/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/081,027

Applicant(s)

KERNS ET AL.

EC

Examiner

John L Sotomayor

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Rallison et al (US 5,991,085).
3. Regarding claim 1, Rallison et al discloses a communication device comprising a light emitting module and an attachment device for affixing said light emitting module on a user (Col 3, lines 25-65).
4. Regarding claims 3 and 4, Rallison et al discloses that the light-emitting module (claim 3) consists of laser devices such as a laser diode array (claim 4) (Col 10, lines 45-50).
5. Regarding claim 5, Rallison et al discloses that the attachment device is glasses (Fig 1).
6. Regarding claim 6, Rallison et al discloses that the attachment device is headgear (Fig 1).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 2 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rallison et al in view of Drumm (US 5,142,655).

11. Regarding claim 2, Rallison et al does not specifically disclose that the communication device further comprises a chart. However, Drumm teaches a communication device attached to a person used for locating positions on a chart on a computer display (Fig 18). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a chart for use with a communication device. Combining the system and method disclosed by Rallison et al with the teaching of Drumm produces a system with greater efficiency in setup and coordination for the user.

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12. Regarding claim 11-13, Rallison et al does not specifically disclose that a chart displays a plurality of symbols (claim 11) or that those symbols are alphanumeric characters (claim 12) or icons (claim 13). However, Drumm teaches that a display chart on a screen presented to a user may have a plurality of symbols on the display (claim 11) and that those symbols may consist of alphanumeric characters (claim 12) and icons (claim 13) (Col 11, lines 13-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a chart that displays a plurality of symbols that consist of alphanumeric characters and icons.

Combining the system and method disclosed by Rallison et al with the teaching of Drumm produces a system easily integrated with software displays available for handicapped persons.

13. Regarding claim 14, Rallison et al does not specifically disclose a system including labels corresponding to concepts to be communicated by a user. However, Drumm teaches that a software function, such as a telephone display, can be initiated with labels for the functions to be communicated by the user (Col 11, lines 33-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a system including labels corresponding to concepts to be communicated by a user. Combining the system and method disclosed by Rallison et al with the teaching of Drumm produces a system in which a disabled user may communicate more rapidly with others.

14. Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rallison et al in view of Huang et al (US 6,513,251).

15. Regarding claim 7, Rallison et al discloses a power attachment via an electrical conductor (Col 7, lines 35-45). Rallison et al does not specifically disclose that power is provided by a battery contained in a power compartment. However, Huang et al teaches a light emitting device

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that is powered by at least one battery contained within a power compartment (Col 2, lines 17-30 and Fig 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide power to the light-emitting system through a battery in a power compartment, or through a power attachment via an electrical conductor. Combining the system and method disclosed by Rallison et al with the teaching of Huang et al produces a system with a plurality of power sources for greater flexibility in the choice of power source.

16. Regarding claim 8, Rallison et al discloses that power is delivered to the light-emitting device via attachment to an electrical conductor. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to enclose a power source in a housing separate from the light-emitting device and connect to the light-emitting device via an electrical conductor.

17. Regarding claim 9, Rallison et al discloses a light-emitting system with a power switch (Col 10, line 30).

18. Regarding claim 10, Rallison et al discloses a light-emitting system with a plurality of video controls, including such controls as back lights for a display, and programmable logic control to implement lighting features (Col 10, lines 20-42). Rallison et al does not specifically disclose a dimmer switch. However, a back light for an LCD is a lower power lighting effect, and the system disclosed by Rallison et al produces lower lighting levels for use with the system. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to produce a dimmer function and connect it to a logical switch for use in lower light conditions.

19. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rallison et al in view of Wilz, Sr. et al (US 6,505,776).

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20. Regarding claims 15 and 17, Rallison et al discloses a laser module attached to a user.

Rallison et al does not specifically disclose that the emitted laser beam illuminates a symbol on a chart (claim 15) or an object (claim 17) for viewing by the user. However, Wilz, Sr. et al teaches that an attachable laser-scanning system is used for illuminating symbols on devices and charts for the purposes of viewing and storing the viewed information (Col 3, lines 7-60 and Fig 19).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to produce a communication device comprising a laser module affixed to the user, said laser used for displaying and viewing symbols on a chart or other illuminated objects. Combining the system disclosed by Rallison et al with the teaching of Wilz, Sr. et al produces a wearable communication system that may be used by any user with a need to exchange information non-verbally.

21. Regarding claim 16, Rallison et al does not specifically disclose the manner in which the laser beam is aimed. However, Wilz, Sr. et al teaches that the laser beam may be aimed via body movement proximal to a point of attachment of the device (Fig 18). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to produce a communication device with a laser beam module capable of being aimed via body movement proximal to a point of attachment of the device. Combining the system disclosed by Rallison et al with the teaching of Wilz, Sr. et al produces a wearable communication system flexible enough for use in a plurality of situations for greater convenience to the user.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kranich et al (US 6,363,648) for a discussion of portable, attachable laser aiming devices.

Hamakata et al (US 4,444,520) for a discussion of attachable communication devices.

Kaufman et al (US 5,517,021) for a discussion of tracking eye movement in attachable devices.

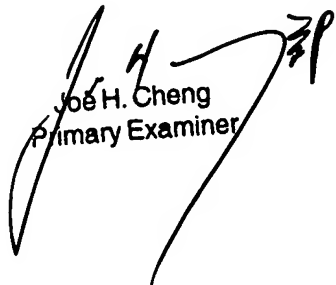
Badgley (US 5,100,328) for a discussion of symbol reading in an attachment device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L Sotomayor whose telephone number is 703-305-4558. The examiner can normally be reached on 6:30-4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-8361 for regular communications and 703-746-8361 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4558.

jls
May 22, 2003


Joe H. Cheng
Primary Examiner